



COUNTY OF SAN DIEGO

LAND USE AGENDA ITEM

BOARD OF SUPERVISORS

GREG COX
First District

DIANNE JACOB
Second District

DAVE ROBERTS
Third District

RON ROBERTS
Fourth District

BILL HORN
Fifth District

DATE: July 20, 2016

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TO: Board of Supervisors

SUBJECT: PARK LANDS DEDICATION ORDINANCE UPDATE (DISTRICTS: ALL)

Overview

The Park Lands Dedication Ordinance (PLDO) was initially adopted by the Board of Supervisors on December 19, 1972 (33) and became effective in January 1973. It operates under the authority of the State of California's Quimby Act. The PLDO requires land developers to dedicate park land and/or pay fees for parks and recreational facilities to meet the needs of new residents. On December 16, 2015 (2), at the recommendation of Vice Chairwoman Dianne Jacob, the Board of Supervisors (Board) directed the Chief Administrative Officer to initiate an update to the County's PLDO by conducting outreach, reviewing similar ordinances, and developing recommendations to provide more flexibility for developers to meet PLDO requirements while balancing the needs of unincorporated communities and park users. The PLDO was last brought before the Board in 2006 to update fees. However, there has not been a comprehensive update to the PLDO in over three decades. The purpose of this item is to present options for updating the PLDO and to receive direction from the Board on the preferred option. The options detailed in this letter have been developed based on stakeholder outreach and staff research.

Today's proposed action is for the Board to provide direction on a preferred option for updating the PLDO. Staff, in consultation with stakeholders, has developed the following options: Option A – Comprehensive PLDO Update, Option B – Limited PLDO Update, Option C – Minor PLDO Text Changes. Staff recommends the Board proceed with Option A – Comprehensive PLDO Update as it would address most of the concerns with the current PLDO that have been raised by staff and stakeholders. If the Board elects to proceed with the update, staff will begin work to update the PLDO, return to the Board with ordinance update alternatives, and subsequently return to the Board to request adoption of a new ordinance based on the Board's direction.

Recommendation(s)

CHIEF ADMINISTRATIVE OFFICER

1. Find that the proposed activity is not subject to the California Environmental Quality Act (CEQA) because it is not a project pursuant to CEQA Guideline section 15378 and is also exempt from CEQA pursuant to Section 15061(b)(3) because it can be seen with

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certainty that the action will not result in a significant impact on the environment.

2. Direct staff to proceed with updating the County's Park Lands Dedication Ordinance according to one of the following options:

Option A - Comprehensive PLDO update

Option B - Limited PLDO update

Option C - Minor PLDO text changes

3. If the Board directs staff to proceed with Option A, establish appropriations of \$300,000 in the Department of Parks and Recreation, Services & Supplies, to prepare necessary studies, based on available prior year Land Use and Environment Group fund balance. **(4 VOTES)**

Fiscal Impact

Funds for this request are not included in the Fiscal Year 2016-18 Approved Operational Plan for the Department of Parks and Recreation. If staff's recommendation to select Option A is approved, this request will result in Fiscal Year 2016-17 costs of \$300,000 for a consultant to conduct a nexus/feasibility study, ordinance analysis, and drafting of a revised ordinance. If approved, the funding source is available prior year Land Use and Environment Group fund balance. If Option B is approved, Department of Parks and Recreation staff time estimated at \$75,000 is included in the Fiscal Year 2016-18 Approved Operational Plan for the Department of Parks and Recreation. If Option C is approved, Department of Parks and Recreation staff time estimated at \$25,000 is included in the Fiscal Year 2016-18 Approved Operational Plan for the Department of Parks and Recreation. The funding source for Options B and C is budgeted General Purpose Revenue for staff time. There will be no change in net General Fund cost and no additional staff years.

Business Impact Statement

An ordinance update pursuant to Options A or B could provide more flexibility for developers dedicating parks associated with discretionary projects while balancing the needs of the community and park users. An ordinance update pursuant to Options A or B may also result in new fees or fee changes for developers. An updated ordinance pursuant to Option A could provide developers with increased park siting opportunities to meet requirements for constructing parks and recreational facilities, while continuing to focus on the County's commitment to healthy communities and meeting the park and recreational needs of residents.

Advisory Board Statement

On May 13, 2016, the Parks and Recreation Advisory Committee recommended that the Board approve Option A. (Ayes-6, Noes-0, Abstain-0, Vacant-1, Absent-3)

Background

The current Park Lands Dedication Ordinance (PLDO) was adopted by the Board of Supervisors on December 19, 1972 (33) and became effective in January 1973. It operates under authority of the State's Quimby Act. It is intended to ensure adequate recreational parks are developed when new homes are constructed by requiring developers to provide 3 acres of parkland per thousand

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new residents or pay fees in lieu of providing new park acreage.

In addition to the County's PLDO requirements for active parks, the Biological Mitigation Ordinance provides subdivision requirements for sensitive habitat and open space, while the Trails Ordinance (No. 9701) and the Community Trails Master Plan provide guidance for recreational trails. The PLDO has not been comprehensively updated since its adoption and has become inadequate in addressing the current needs of developers and the recreational needs of the community. The current PLDO narrowly defines active recreation and does not provide detailed guidance on required or desired park elements. When PLDO fees are paid in lieu of dedicating parks, they are directed into Local Park Planning Area (LPPA) accounts which may overlap four or more Community Planning areas, complicating expenditure decisions. The PLDO does not address siting parks outside a development, which, in some cases, may better serve the recreational needs of the community.

On December 16, 2015 (2), at the recommendation of Vice Chairwoman Dianne Jacob, the Board of Supervisors directed the Chief Administrative Officer to conduct outreach efforts, review similar park land ordinances, and develop recommendations to update the PLDO and report back to the Board within 180 days. Staff researched ideas such as interjurisdictional partnerships, revising LPPA boundaries to be consistent with Community and Subregional Plan boundaries, including level of service standards to meet community needs, aligning with the General Plan, County Strategic Plan, and *Live Well San Diego*. Since then, staff has held dozens of meetings with community representatives and stakeholders to share the County's existing PLDO and discuss the desired improvements to the PLDO.

RESEARCH AND STAKEHOLDER COORDINATION

Stakeholder Outreach

Over the past six months, staff met with stakeholders to discuss PLDO issues identified by the land development industry, and park and trail user groups. Staff also reached out to all the County community planning/sponsor groups to hold meetings to obtain input and feedback on the PLDO. During these meetings, stakeholders recommended various changes to the PLDO. Some stakeholders sought to expand the definition of active recreation to allow greater flexibility to meet requirements while complying with increased stormwater, landscaping, and water conservation requirements. Others recommended subdivisions that only pay in-lieu fees set up a funding mechanism to cover ongoing operation and maintenance costs associated with future improvements funded with these fees. Because the Quimby Act prohibits the use of in-lieu fees for operation and maintenance, some stakeholders recommended an increase in inter-agency and public-private partnerships to operate and maintain park facilities when County funding is not available.

Stakeholders recommended that the Department of Parks and Recreation (DPR) develop community-specific standards to ensure new park and recreation facilities are consistent with each community's unique character. Community Planning and Sponsor Groups requested that Local Park Planning Areas be aligned to be consistent with Community and Subregional Plan boundaries to provide certainty and avoid confusion.

Jurisdictional Review

Staff reviewed and compared similar park ordinances from 42 cities and counties throughout California. To meet the demand for new park and recreational facilities generated by new development, the cities and counties evaluated have adopted ordinances based on California's park land dedication statute, known as the Quimby Act, or the State's Mitigation Fee Act, enacted in 1987. Some jurisdictions have ordinances based on both the Quimby Act and the Mitigation Fee Act. The County's PLDO is based only on the Quimby Act.

The Quimby Act

Enacted in 1965, California's park land dedication statute, which later became the Quimby Act (Government Code Section 66477) authorizes cities and counties to adopt an ordinance that requires the dedication of park land, payment of fees in-lieu of dedicating park land, or a combination of both as a condition of approval of a tentative map or parcel map. The formulas for calculating in-lieu park fees and park acreage based on the Quimby Act vary among cities and counties. These formulas may take into consideration type of housing (single family/multi-family), occupant density (average persons per dwelling unit), fair market value of land and other factors. Fees collected pursuant to the Quimby Act can be used to acquire park land, build new parks, build new park amenities or rehabilitate existing park and recreational amenities. The Quimby Act does not allow collected fees to be used for ongoing park maintenance.

Mitigation Fee Act

The Mitigation Fee Act, or Government Code Section 66000 et. seq., sets forth legal requirements for enactment of a development impact fee program, which differs from the Quimby Act. The Mitigation Fee Act requires that a "reasonable relationship" or nexus exist between the improvements and facilities required, and the burden posed by the new development for legislatively imposed development mitigation fees. The Mitigation Fee Act requires local governments to document the following prior to adoption: the purpose of the fee; the proposed use of the fee; the reasonable relationship between the fee's use and the type of development project on which the fee is imposed; and the reasonable relationship between the need for the public facility and the type of development project on which the fee is imposed. In order to make these findings, the County must conduct a nexus study to demonstrate that the proposed fees were calculated properly. Fees collected pursuant to the Mitigation Fee Act can be used to acquire park land, build new parks, or construct new recreational amenities. Similar to the Quimby Act, the Mitigation Fee Act does not allow collected fees to be used for ongoing park maintenance. Additionally, unlike Quimby fees, Mitigation Fee Act fees can be assessed on all development projects involving the issuance of a permit for construction or reconstruction.

Parkland Ordinance Differences Among Jurisdictions

Regardless of whether a jurisdiction has enacted a Mitigation Fee Act, the Quimby Act, or both, there are wide variations amongst the jurisdictions in fee calculation methodology, operation and maintenance funding sources, and park land acreage dedication requirements. Below is a summary of staff's research of parkland dedication ordinances from other jurisdictions throughout California and how they relate to the current PLDO. Staff saw differences in many areas of these ordinances including park design requirements and funding of operations and maintenance.

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Park Design Requirements

Jurisdictions employ a variety of park design requirements such as: 1) providing a tool box or list of required elements and optional amenities from which a developer may choose, 2) providing up to 50% acreage credit for private parks if the private park meets certain design standards, and 3) incorporating design and level of service standards in their General Plans. Currently, the County's PLDO does not include specific design requirements or recommendations.

Funding Operation and Maintenance

Many jurisdictions have difficulty meeting the operational and maintenance needs of parks in light of aging infrastructure, increasing costs, and greater demand. Some jurisdictions rely on assessment districts such as County Service Areas which can be used for existing park operations or maintenance or Community Facilities Districts which are established by new developments to fund operations and maintenance. PLDO fees are one-time monies that can only be used to develop new, or rehabilitate existing, park or recreation facilities; they cannot be used for ongoing costs such as operation and maintenance.

COUNTY OF SAN DIEGO PLDO UPDATE OPPORTUNITIES

Section 810.102 of the County's PLDO defines "Active Recreational Use" as recreational facilities occurring on level or gently sloping land (maximum 10%) restricted for park and recreation purposes in a planned development which are designed to provide individual or group activities of an active nature common to local parks in San Diego county, including but not limited to, open lawn, sports fields, court games, swimming pools, children's play areas, picnic areas, recreation buildings, dance slabs, and recreational community gardening. The County's PLDO only allows developer credit for parks that provide active recreational use; full credit for public parks and half credit for private parks. County expenditure of in-lieu fees is used for park land acquisition or active recreation improvements. The County has received feedback from several stakeholder groups requesting changes to how "active recreation" is defined. All PLDO update options would explore this request.

None of the ordinances researched specifically provide for construction of developer parks outside the project footprint or within other jurisdictions to meet park land dedication requirements. Most ordinances require parkland to be dedicated within the project boundary or require the payment of impact fees, which could be used by the jurisdiction for off-site park improvements. When parks are constructed by a developer within a new residential community, a community facilities district will be established to fund operations and maintenance of public parks in perpetuity and the subdivision's homeowners association will be required to maintain private parks in perpetuity. When the County uses in-lieu fees to create or improve off-site parks, the County must ensure funding for operation and maintenance of the improvements. The County has received feedback from stakeholders requesting flexibility in siting parks. A comprehensive update to the PLDO would explore this request (Option A below).

OPTIONS FOR BOARD CONSIDERATION

At the direction of the Board, staff has developed options for updating the PLDO considering staff research and feedback from stakeholders. Staff does not propose any changes to the General Plan or the Community Trails Master Plan as conformance with these documents is already required for new development.

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Three options are presented within this letter for the Board's consideration:

- Option A: Comprehensive PLDO Update – Conduct a comprehensive update to the PLDO, which would include hiring a consultant to conduct a feasibility and nexus study to guide ordinance and policy changes.
- Option B: Limited PLDO Update – Make limited changes to the PLDO and other relevant ordinances and policies and align the PLDO with the current General Plan.
- Option C: Minor Text Changes – Make minor changes to the PLDO to align with the current General Plan.

All three options seek to balance the needs of the community, developers, and park users and are detailed below. Once staff receives direction from the Board, staff will begin working with stakeholders to update the ordinance. Staff will return to the Board with ordinance update alternatives, and subsequently return to the Board to request adoption of a new ordinance based on the Board's direction.

Option A: Comprehensive PLDO Update

Option A would allow for a comprehensive update of the PLDO. This option would fund a consultant to prepare a nexus/feasibility study to explore the legal and policy basis for updating the PLDO based on the Quimby Act, Mitigation Fee Act, or both and would provide recommendations. The study would establish the “nexus” between the impact of new development, amount of parkland needed to serve the public, and the amount of in-lieu fees required under the Mitigation Fee Act. The study would examine the feasibility of requiring projects that pay in-lieu fees to establish a mechanism to fund ongoing operation and maintenance of improvements funded with in-lieu fees. The study would provide the opportunity to address level of service standards and realign the Local Park Planning Areas to coincide with the Community Planning Group boundaries. The study would examine broadening the scope of the County's park fee program and providing additional clarity on parks conditioning and flexibility for siting parks. Option A would allow staff to research and address all major concerns raised with the existing PLDO and provide recommendations for updating the PLDO fee methodology and implementation. This option would require continued community outreach with the PLDO Advisory Committee which consists of representatives from community planning/sponsor groups, park and trail user groups, and the development community. This option would also provide additional community outreach related to the County's draft Parks Master Plan which includes planning area level of service standards. Under Option A, the consultant would also assist with drafting the revised ordinance and completing an environmental review, if required. The cost of this option is \$300,000 and it is anticipated to take 18 to 24 months to allow for preparation of a nexus/feasibility study, ordinance and policy amendments, public outreach, environmental review process (if necessary), hearing preparation, and return to the Board.

Option B: Limited PLDO Update

This option would result in limited changes to the PLDO. This option is similar to Option A, but

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would not result in the preparation of the nexus/feasibility study necessary to realign the LPPAs, would not examine regionalization of parks, and would not explore maintenance funding sources. As in Option A, extensive stakeholder outreach would take place and the advisory committee would be involved throughout the update process. The Parks Master Plan would be updated as necessary and brought forward to the Board. The cost of this option is \$75,000 related to Department of Parks and Recreation staff time and is anticipated to take 12 to 18 months to allow for drafting of the revised ordinance and options for Board consideration, public review and outreach process, environmental review process (if necessary), hearing preparation, and return to the Board.

Option C: Minor PLDO Text Changes

The Minor Text Changes option would not result in a comprehensive update to the PLDO. Instead, the PLDO would be updated to ensure consistency with the General Plan and any other related ordinances and regulations. Proposed changes will be developed in conjunction with our PLDO stakeholders. The cost of this option is \$25,000 for Department of Parks and Recreation staff time and is anticipated to take 6 to 12 months to allow for drafting of the revised PLDO, update or create relevant policies and ordinances, public review and outreach process, hearing preparation, and to return to the Board.

COMPARISON OF PLDO UPDATE OPTIONS			
	Option A Comprehensive PLDO Update	Option B Limited PLDO Update	Option C Minor Text Changes
Cost	\$300,000	\$75,000	\$25,000
Timing	18-24 months	12-18 months	6-12 months
Desired Outcomes			
Update PLDO language to remove inconsistencies and provide more clarity	X	X	X
Align PLDO with the <i>Live Well San Diego</i> vision by promoting recreational opportunities in close proximity to new development	X	X	X
Align with General Plan	X	X	X
Create a developer toolbox that provides a menu of park amenity options for developers	X	X	X
Amend, update or create new relevant ordinances and policies	X	X	
Nexus/Feasibility Study for Quimby Act and Mitigation Fee Act	X		
Realign Local Park Planning Areas to coincide with Planning/Sponsor Group or Subregional areas	X		
Explore siting parks and ensuring maintenance for parks outside development boundaries	X		

OTHER ORDINANCE AND POLICY CHANGES

Other ordinance and policy changes are recommended to be considered as part of this project. An amendment to Board Policy F-26: Utilization of Park Lands Dedication Ordinance Fees and Interest may be required to ensure consistency with proposed changes to the PLDO. Options A or B also may require revisions to Board Policy I-44: Procedures for Designing New County-owned Community/Local Parks to ensure consistency with any proposed changes to the PLDO. Once PLDO updates are underway, additional policies and ordinances may require changes to ensure consistency. Proposed County policy and ordinance changes related to parks and recreation will be brought to the Board for consideration, should staff be directed to proceed with Option A or B.

STAFF RECOMMENDATION

Staff recommends Option A: Comprehensive PLDO Update. A PLDO updated pursuant to Option A will result in a substantially improved ordinance that would address many of the concerns raised by stakeholders during public outreach. The PLDO was last brought before the Board of Supervisors in 2006 to update fees and has not been comprehensively updated in over three decades. A comprehensive update would provide more clarity, certainty, and flexibility for staff, communities, and developers and ensure consistency the County General Plan and other development requirements.

NEXT STEPS

If the Board selects an option, staff will begin work to update the PLDO and develop a project schedule for ordinance development. Staff would begin preparation of the revised ordinance and a nexus/feasibility study, if applicable, and any necessary environmental documents. A consultant may be hired to work with staff to prepare nexus studies, and an environmental impact report, if necessary. Regular stakeholder meetings and review of documents would occur periodically throughout development of the ordinance. Staff would return to the Board to provide alternatives to the Board and then subsequently to request adoption of a new ordinance which includes the options selected by the Board.

Environmental Statement

Today's proposed action for the Board to provide further direction regarding an update to the Park Lands Dedication Ordinance (PLDO) and provide funding for studies is not a project pursuant to California Environmental Quality Act (CEQA) Guidelines section 15378 because it does not have a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. In addition, CEQA Guidelines section 15378(b)(4), specifically excludes from the definition of Project "the creation of government funding mechanisms or other government fiscal activities, which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment." This action is also exempt from CEQA pursuant to Section 15061(b)(3) in that it can be seen with certainty that the direction for staff to draft an update to the PLDO and return to the Board with a revised PLDO and related policies and ordinances does not have the potential to significantly impact the environment. Any environmental review that may be required, based on the Board's direction today, will be completed before staff returns to the Board to request adoption of a new PLDO ordinance.

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Linkage to the County of San Diego Strategic Plan

Today's proposed action supports the Healthy Families, Sustainable Environments and Operational Excellence Strategic Initiatives in the County of San Diego's 2016-2021 Strategic Plan by ensuring the County's park land dedication policies allow residents to make healthy choices, provide residents an opportunity to enjoy parks and ensure the County provides modern infrastructure in County parks and contributes to building a region that is thriving.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Sarah Aglassi". The signature is fluid and cursive, with the first name "Sarah" and last name "Aglassi" clearly distinguishable.

SARAH E. AGHASSI
Deputy Chief Administrative Officer

ATTACHMENT(S)

Attachment A – Local Park Planning Areas Map
Attachment B – PLDO Fee Comparison Chart
Attachment C – Public Documentation

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: ☒ Yes ☐ No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED
☐ Yes ☒ No

PREVIOUS RELEVANT BOARD ACTIONS:

On December 16, 2015 (2), the Board of Supervisors gave direction for the Department of Parks and Recreation staff to conduct outreach efforts, review similar ordinances, and develop recommendations to amend the Park Lands Dedication Ordinance.

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):

N/A

ORIGINATING DEPARTMENT: Department of Parks and Recreation

OTHER CONCURRENCES(S): Planning and Development Services

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